

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                            |   |                          |
|----------------------------|---|--------------------------|
| THOMAS EDWARD PORTER,      | ) |                          |
|                            | ) |                          |
| Petitioner,                | ) | <b>2:05cv291</b>         |
|                            | ) | <b>Electronic Filing</b> |
| v.                         | ) |                          |
|                            | ) | Judge Cercone            |
| TIMOTHY WAKEFILED, et al., | ) | Magistrate Judge Caiazza |
|                            | ) |                          |
| Respondents.               | ) |                          |

**MEMORANDUM ORDER**

Thomas Edward Porter's Petition for Writ of Habeas Corpus was received by the Clerk of Court on March 4, 2005, and was referred to United States Magistrate Judge Francis X. Caiazza for a Report and Recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's Report and Recommendation, filed on December 16, 2005, recommended that the Petition for Writ of Habeas Corpus filed by Thomas Edward Porter should be denied and that a certificate of appealability should be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on the Petitioner by First Class United States Mail and on the Respondents. Objections were filed by the Petitioner on December 30, 2005. After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

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AND NOW, this 19 day of January, 2006;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus filed by Thomas Edward Porter is denied and it is ORDERED that a certificate of appealability is denied.

The Report and Recommendation of Magistrate Judge Caiazza, dated December 16, 2005, is adopted as the opinion of the court.

DStewartCercone

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David Stewart Cercone  
United States District Judge

cc: Honorable Francis X. Caiazza  
United States Magistrate Judge

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